FOR MYSORE STATE

PSE

Home (1953) Department.

Rt SERIES. PASSED

G.O. NO.	Rt 2057
Dated	11.6.53

[Despatch Abstract.]

A B S T R A C T:

MOTOR VEHICLES - Stage Carriages - Regional Transport Authority, West Godavari Bus No. MDW. 762 - Permit suspended for six months by the Secretary, Regional Transport Authority - Period of suspension reduced to four months by the Secretary, Central Road Traffic Board Revision petition to Government - Period of suspension reduced to one week - Orders passed.

Home Department.

G.O.Rt.No 2057 Dated 11th June, 1953
Read the following:-

From Sri N. Sarraju, revision petition dated Nil received on 9-4-1953
From the Secretary, Central Road Traffic Board letter No-21321/A3/53 dated 22-4-1953

--

ORDER:

The Secretary, Regional Transport Authority, West Godavari, in his proceedings dated 21-12-1952 suspended the permit of bus MDW 762 for six months for an offence of not having paid the tax for the month of October 1952 though the vehicle had plied upto 7-10-52 which fact was detected by the Sub Inspector of Police, Central Flying Squad, Madras on 9-11-52 On appeal to the Central Road Traffic Board, the Secretary, Central Road Traffic Board in his proceedings dated 28-2-1953 reduced the period of suspension from six months to four months. Against this order of the Secretary, central Road Traffic Board the petitioner has come up to Government in revision.

2. The Government have examined the case with reference to the revision petition cited, the connected records and the history sheet of the petitioner. The Government consider that the non-payment of tax within time in this case was due to ignorance of the rules, and that the petitioners' explanation for not having made the payment within the time is bona-fide. In the circumstances, the Governor of Madras directs that the period of suspension of the permit be reduced to one week. The revision petition is allowed to this extent.

3. The stay ordered in Memorandum No. 75189 Transport II/53-1 Home dated 9-4-1953 is hereby vacated.

O. Pulla Reddi,
Secretary to Government.

To
Sri N Sarraju, thro' Kumari Nasreen Amirudden, Advocate, No.1, Moore's Road, Nungambakkam, Madras-6 (under certificate of posting)
The Secretary, Central Road Traffic Board, Madras-8 (with enclosures in orgl.)
The Regional Transport Officer, Eluru (Under Certificate of posting)

Copy to Mysore State
True Copy/ Forwarded/ By Order

Superintendent.

rsn:13/6.

C.No.75189 Transport II/53

Motor Vehicles - Stage Carriages - Regional Transport Authority, West Godavari - Bus No. MDW. 762 - Permit suspended for six months by the Secretary, R.T.A., Period of suspension reduced to four months by the Secy., C.R.T.Bd. Revision petition to Government.

From Sri N. Sarraju, revision pet. d/nil received on 9-4-1953.
Rxx (Issued as Memo No. 75189 Tr.II/53-1 d/9-4-1953.
From the Secy., C.R.T.Bd. letter No.21321/A3/53 Dated 22-4-1953.

Abstract of the cases

District	West Godavari
Order of the Secy., R.T.A.	Suspended the permit of bus MDW 762 for a period of six months.
Order of the Secy., C.R.T. Bd.	Reduced the period of suspension to four months.
Petition to Govt.	From Sri N. Sarraju, to set aside the order of the Secy., C.R.T.Bd.

The file deals with a revision petition from Sri N. Sarraju against the order of the Secy., C.R.T.Bd., at p. 13 C.F. The petition is in time and the prescribed fee of Rs. 50/- has been paid. The remarks of the C.R.T.Bd. are at p. 25 c.f. and the connected records are at (C)- The history sheet of the petr. is on p.21 of (C). The facts of the cases are as follows:-

2. The Secy. R.T.A., W. Godavari, in his proceeding d/21-12-52 suspended the permit of bus MDW 762 for six months for an offence of not having paid the tax for the month of October, 1952 though the vehicle had plied upto 7-10-1952 which fact was detected by the S.I. of Police, Central Flying Squad, Madras on 9-11-52. On appeal to the C.R.T. Bd., the Secy., C.R.T. Bd. in his proceedings d/28-2-53 reduced the period of suspension from six months to four months. It is against this order that the petitioner has come upto Government in revision.

3. (i) The petitioner has contended that his bus had to be stopped from 8-10-52 to 7-11-52 to undergo a suspension order, that on 8-11-52 he paid the tax for the quarter except for the period from 1-10-52 to 7-10-52, that on 14-11-52 when it was brought to his notice that he should pay the tax for the period 1/10-52 to 7-10-52, he paid the tax for that period also and that the R.T.O. had not taken all these facts into consideration while passing the order suspending the permit.

The R.T.O. Eluru, has stated that the petitioner having run the vehicle upto 7-10-52, should have paid the tax within seven days of the quarter especially when he was asked to stop the vehicle to undergo a suspension period from 8-10-52 to 7-11-52 and that

plying a public service vehicle on a public road with payment of provincial tax is a clear violation of the conditions of the permit and that the permit was, therefore, suspended for six months.

The Secy., C.R.T.Bd. in his proceedings dated 28-2-1953 had observed that thegrace period allowed is only a concession with regard to the date of payment of tax and that the petitioner cannot say that he is not liable to pay tax justice because the vehicle was used on the road during the grace period only. In view of the fact that the arrears of tax were since duly paid by the petitioner the Secy., C.R.T.Bd. has taken a lenient view and reduced the period of suspension from six months to four months.

(ii) The petitioner has contended that the additional conditions in respect of taxation that have been added at the end of the permit, were inserted at the end of the permit long afterwards and without conforming with the provisions of Section 48-A of the Motor Vehicle Act, that therefore they are not binding on him and that since these additional conditions were added on to his permit without his knowledge and withoutnotice being given to him, these new conditions are not binding on the petitioner.

The Secy., C.R.T. Bd. has pointed out that according to the amended rule which came into force from October, 1951 the vehicle should not be used on public road withou paying the tax, that since the offence in the case was committed after the amendment came into force, the findin of the R.T.O. is correct. The Secy., C.R.T.Bd, has also stated that there is no substance in the argument since the wording of the said condition is not varied in sense of the term and that the condition continues to remain the same without any change.

4. Both the R.T.O. and the Secy., C.R.T.Bd., have pointed out that if the offence was not detected, the petitioner would not have paid the tax of his own accord and would have evaded payment.

5. The permit of the same bus was suspended for three months for an offence of overloading. The petr. has come up to Govt. in revision against that order and the petn. is examined in the top file.
In the circumstances the file may be circulated to M. (I&L) for orders--

(i) Whether the petition may be allowed and the orders of the Secy., C.R.T.Bd. set aside or
(ii) Whether the period of suspension will be reduced, and if so, to what period; or
(iii) whether the petition will be rejected and stay vacated.

Cases of evasion of tax should be dealt with severely. Although Govt. deprecate suspension of permits for long periods, it is for consideration whether the order of the Secy., C.R.T.Bd., may be confirmed.

J.J.R. 15-5-53.

The tax for the bus MDW 762 for the quarter ending 31-12-1952 should have been paid not later than 7-10-52 The vehicle ran on the road from 1-10-1952 to 7-10-52. From 8-10-1952 the vehicle was taken off the road to suffer a punishment of suspension for a period of one month inficted before the permit was transferred in the name of the petitioner. The petr. paid the tax for two months, November and December 1952 on 7-11-52 and put the vehicle on the road on 8-11-52. The same day, a Sub. Inspr. of the Central Police Flying Squad checked it and issued a notice that the tax for October, 1952 also should be paid as the vehicle was on the road from 1-10-1952 to 7-10-1952. The tax for October 1952 was paid on 14-11-1952. The R.T.O. Eluru issued a notice to the petitioner on 25-11-1952 (ten days after the tax was paid) directing him to pay the tax for October 1952 forthwith failing which action will be taken under the Madras Motor Vehicles Taxation Act. The petitioner replied that he paid the tax even before he received the notice. The petr. has admittedly run the vehicle from 1-10-1952 to 7-10-1952 which is the period of grace for paying the tax for the quarter ending 31-12-1952. The petitioner explains that his agent bonafide thought that tax need not be paid for the grace period and that soon after the S.I. Central Flying Squad issued a notice to him he paid the tax and that he did not wilfully evade the payment of tax. He urges that he never evaded paying tax due to Govt. and that on the other hand, he paid tax in excess and claimed refund on two occasions as could be seen from the proceedings of the District Magistrate West Godavari, Roc. C.4. 38-M-52, dated 17-4-1952 and Roc. C.4.2017-M-52 dated 21-10-1952 which he had filed along with his revision petition. Running the vehicle without payment of tax is no doubt a breach of the condition of permit for which the petitioner is liable. He has brought to the notice that the R.T.O. who punished him let off a permit holder of the same district- West Godavari - with a warning for running a vehicle without paying the tax from 12-5-1952 to 16-6-1952. Please see the certified copy of the proceedings dated 6-11-52 on p. 29 of flag (C). The next month, the R.T.O. imposed on the petitioner an unduly severe sentence of suspension for six months. The R.T.O. may be called on to explain why he let off one operator with a warning and why he imposed a punishment of suspension for six months on another operator for a similar offence.

2. Considering all the circumstances of this case, we may deal with the petitioner leniently. The vehicle ran for one week without paying the tax. The period ofsuspension may be reduced to one week.

V.H.R / 18-5-53,

M. (I & L)

The vehicle ran for one week without paying tax. Is there not the 'grace' period as in Motor cars. In view of the explanation given I am inclined to let him off. Please clarify if there is a 'grace' period during which operators can run their buses without paying taxes and without being punished. What is the practice. X on page 5 also requires an explanation.

U. Krishna Rau,
21-5-53.

Ref: 'A' in (M(I &L)'s minute above:

There is a grace period of one week for payment of tax in respect of all motor cars and transport vehicles, ordinarily kept in the State of Madras. The period of grace is allowed to facilitate the owners to pay tax and this provision does not exempt them from payment of tax if they ply their vehicles during the period of grace. Attention is invited to para 2 of G.O.Ms. No.5170, Home Dated 25th October 1938, extracted below for ready reference:--

"2. There are two types of case for consideration,

(a) the case of a person who uses the road with his car during the period of grace and does not use it thereafter and does not pay the tax and

(b) the case of a person who uses the road with his car within the period of 7 days' grace and pays the tax, but only pays it after the expiry of the period of grace.

The person referred to in (a) above is liable to prosecution for an offence under section 7 of the Madras Motor Vehicles Taxation Act. Liability to pay the tax is consequent upon the use of the car on the road during any part of the period for which the tax is payable. The fact that the tax need not be actually paid until, and inclusive of the 7th day of the quarter does not imply that liability to pay is not incurred by the use of the road during the first seven days. It merely means that the liability will be enforceable only after the expiry of the period of grace".

'B' in M. (I & L)'s minute on p. 6 ante: An explanation from the R.T.O. may be called for.

The file may be recirculated to M. (I & L) with ref. to his minute on p. 6 ante.

During the grace period, the provisions of M.M.V.T.Act are not enforced but if a person plies a vehicle during the grace period he must pay tax even if he does not use the vehicle after the grace period.

J.J.R. /2-6-53

Payment of tax within time in the case was due to ignorance of the rules. The explanation is bonafide.

V.H.R./2-6-1953.

Period of suspension reduced to one week.

U. Krishna Rau,
5-6-1953.

/True copy/